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RKL REGULATORY COMPLIANCE FOR FINANCIAL INSTITUTIONS >

May 2023

Increased Forty-Year Term for Loan Modifications

March 8, 2023

- HUD's regulations allow mortgagees to modify a Federal Housing Administration (FHA) insured mortgage by recasting the total unpaid loan for a term limited to 360 months to cure a borrower's default. This rule amends HUD's regulation to allow for mortgagees to recast the total unpaid loan for a new term limit of 480 months. Increasing the maximum term limit to 480 months will allow mortgagees to further reduce the borrower's monthly payment as the outstanding balance would be spread over a longer time frame, providing more borrowers with FHA-insured mortgages the ability to retain their homes after default. This change will also align FHA with modifications available to borrowers with mortgages backed by the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac), which both currently provide a 40-year loan modification option. This final rule adopts HUD's April 1, 2022, proposed rule without change.
- The final rule is effective May 8, 2023.

[Additional Information](#)

Regulation D: Reserve Requirements of Depository Institutions

March 29, 2023

- The Board of Governors of the Federal Reserve System (“Board”) has adopted final amendments to its Regulation D to revise the rate of interest paid on balances (“IORB”) maintained at Federal Reserve Banks by or on behalf of eligible institutions. The final amendments specify that IORB is 4.9 percent, a 0.25 percentage point increase from its prior level. The amendment is intended to enhance the role of IORB in maintaining the federal funds rate in the target range established by the Federal Open Market Committee (“FOMC” or “Committee”).
- The amendments to part 204 (Regulation D) are effective March 29, 2023.

[Additional Information](#)

Regulation A: Extensions of Credit by Federal Reserve Banks

March 29, 2023

- The Board of Governors of the Federal Reserve System (“Board”) has adopted final amendments to its Regulation A to reflect the Board's approval of an increase in the rate for primary credit at each Federal Reserve Bank. The secondary credit rate at each Reserve Bank automatically increased by formula as a result of the Board's primary credit rate action.
- *Effective date:* The amendments to part 201 (Regulation A) are effective March 29, 2023.
- *Applicability date:* The rate changes for primary and secondary credit were applicable on February 23, 2023.

[Additional Information](#)

Statement of Policy Regarding Prohibition on Abusive Acts or Practices

April 12, 2023

- The Consumer Financial Protection Act of 2010 (CFPA) prohibits any “covered person” or “service provider” from “engag[ing] in any unfair, deceptive, or abusive act or practice” and defines abusive conduct. An abusive act or practice: materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service, or takes unreasonable advantage of a lack of understanding on the part of the consumer of the material risks, costs or conditions of the product or service, the inability of the consumer to protect the interests of the consumer in selecting or using a consumer financial product or service, or the reasonable reliance by the consumer on a covered person to act in the interests of the consumer. Since the enactment of the CFPA, government enforcers and supervisory agencies have taken dozens of actions to condemn prohibited abusive conduct. This policy statement summarizes those actions and explains how the Consumer Financial Protection Bureau (CFPB) analyzes the elements of abusiveness through relevant examples, with the goal of providing an analytical framework to fellow government enforcers and supervisory agencies and to the market for how to identify violative acts or practices. While not required under the Administrative Procedure Act, the CFPB is opting to collect comments on the policy statement and may make revisions as appropriate after reviewing feedback received.
- This policy statement is applicable as of April 12, 2023. Comments must be received by July 3, 2023.

[Additional Information](#)

Interagency Policy Statement on Allowances for Credit Losses (Revised April 2023)

April 27, 2023

- The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation and the National Credit Union Administration (collectively, the agencies) are issuing a revised interagency policy statement on allowances for credit losses (ACLs) (revised statement). The agencies are issuing the revised statement in response to changes to U.S. generally accepted accounting principles (GAAP) as promulgated by the Financial Accounting Standards Board (FASB) in Accounting Standards Update (ASU) 2022–02, *Financial Instruments—Credit Losses (Topic 326): Troubled Debt Restructurings and Vintage Disclosures* issued in March 2022.
- The interagency policy statement is available on April 27, 2023.

[Additional Information](#)

CFPB Issues Request for Comment for 610 Review of the Regulation Z Mortgage Loan Originator Rule

March 10, 2023

- The CFPB issued a Request for Comment related to its Regulatory Flexibility Act review of the Regulation Z Mortgage Loan Originator Rule. Pursuant to section 610 of the Regulatory Flexibility Act, the CFPB is reviewing the Mortgage Loan Originator Rule for the impact it has had on small entities since the effective date. This Request for Comment seeks information that may assist the CFPB in determining whether the Regulation Z Mortgage Loan Originator Rule should be continued without change, or if it should be amended or rescinded to minimize any significant economic impact of the rule on a large number of small entities, as required by the Regulatory Flexibility Act.
- Comments must be received on or before May 1, 2023.

[Additional Information](#)

Regulation Z's Mortgage Loan Originator Rules Review Pursuant to the Regulatory Flexibility Act

March 16, 2023

- The Consumer Financial Protection Bureau (CFPB or Bureau) is conducting a review of Regulation Z's Mortgage Loan Originator Rules (Loan Originator Rules) pursuant to section 610 of the Regulatory Flexibility Act. Regulation Z, which implements the Truth in Lending Act (TILA), among other things, imposes certain requirements on: loan originator compensation; qualification of, and registration or licensing of, loan originators; compliance procedures for depository institutions; mandatory arbitration; and the financing of single premium credit insurance. As part of this review, the Bureau is seeking comment on the economic impact of the Loan Originator Rules on small entities. These comments may assist the Bureau in determining whether the Loan Originator Rules should be continued without change or amended or rescinded to minimize any significant economic impact of the rules upon a substantial number of such small entities, consistent with the stated objectives of applicable Federal statutes.
- Comments must be received on or before May 1, 2023.

[Additional Information](#)

ACH Operations — Update to Sample Written Statement of Unauthorized Debit

March 27, 2023

- Nacha is updating the sample Written Statement of Unauthorized Debit (WSUD) to include language alerting consumers of the risks of making false claims of unauthorized ACH debits to their financial institutions.
- In an effort to educate consumers, and as an anti-fraud measure, Nacha is amending its sample form WSUD to include a disclosure, similar to those found on other widely used banking forms, informing consumers of the possible penalties that could result from making false representations to a financial institution. Nacha's goal is to alert well-meaning consumers to federal laws and help them avoid violating such laws, based on misguided advice they may have received.
- Nacha is adding the following language to its sample form WSUD, and advises RDFIs that they may want to consider including similar language on the forms that they use:
 - Any intentional attempt to obtain money from a financial institution by misrepresenting whether a transaction was authorized may result in the imposition of fines up to \$1,000,000, or imprisonment up to 30 years, or both under the provisions of Federal law (18 U.S.C. §1344).
- An updated sample WSUD includes the new disclosure. This updated sample WSUD will be published in the next edition of the annual Nacha Operating Rules & Guidelines.

[Additional Information](#)

Credit Card Penalty Fees (Regulation Z)

March 29, 2023

- The Consumer Financial Protection Bureau (Bureau) proposes to amend Regulation Z, which implements the Truth in Lending Act (TILA), to better ensure that the late fees charged on credit card accounts are “reasonable and proportional” to the late payment as required under TILA. The proposal would adjust the safe harbor dollar amount for late fees to \$8 and eliminate a higher safe harbor dollar amount for late fees for subsequent violations of the same type; provide that the current provision that provides for annual inflation adjustments for the safe harbor dollar amounts would not apply to the late fee safe harbor amount; and provide that late fee amounts must not exceed 25 percent of the required payment.
- Comments should be received on or before May 3, 2023.

[Additional Information](#)

Fair Lending, Fair Housing and Equitable Housing Finance Plans

April 26, 2023

- The Federal Housing Finance Agency (FHFA or the Agency) is seeking comments on a proposed rule that would address barriers to sustainable housing opportunities for underserved communities by codifying existing FHFA practices in regulation and adding new requirements related to fair lending, fair housing and Equitable Housing Finance Plans. The proposed rule would improve FHFA's fulfillment of its statutory purposes and its oversight of the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), and the Federal Home Loan Banks (Banks) (Fannie Mae and Freddie Mac collectively, the Enterprises; the Enterprises and the Banks collectively, regulated entities), and their fulfillment of their statutory purposes.
- Comments must be received on or before June 26, 2023.

[Additional Information](#)

CFPB Sends Notice About HMDA Address Errors

May 1, 2023

- A handful of credit unions have received a notice from the Consumer Financial Protection Bureau (CFPB or Bureau) relating to the data they reported under the Home Mortgage Disclosure Act (HMDA). The notice announces that the CFPB’s “HMDA Operations team” reviewed the credit union’s HMDA Loan/Application Register (LAR) for 2020, 2021 and 2022, and concluded that the data “may contain invalid entries” in the “Street Address” field.
- The notice states that the CFPB is contacting institutions whose HMDA LARs contained errors such as reporting “multiple addresses, multiple property numbers, missing street names, placeholder addresses (e.g., TBD Condo or 000 Street), information that should be listed in other fields (e.g. zip codes) or listing street intersections.”
- The notice also states that the HMDA Operations team will “conduct another analysis on data (including resubmissions on **May 15, 2023...**” Thus, while the notice does not say that resubmission is *required*, the reference to a second review on May 15 certainly seems designed to spur credit unions to action, as it is unclear what action the CFPB may take if it discovers that the initial errors have not been corrected by that time.
- Credit unions that have received this notice may want to confer with their legal counsel regarding their potential legal liability for these errors and may want to consider making the corrections and resubmitting the data to mitigate possible future compliance risk that might arise if the errors remain uncorrected.

[Additional Information](#)



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